

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Fluoroquinolones in Seafood (LAC 7:XXXV.511)

This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule declaring the country of China to be a geographic area where Fluoroquinolones is being used on or found in food producing animals or in products from such animals. The commissioner has reason to believe that China is a geographic area where Fluoroquinolones is being used on or found in food producing animals or in products from such animals because Mississippi and Alabama have found Fluoroquinolones in fish from China. Additionally, testing by the department has resulted in positive testing of fish from China for the presence of Fluoroquinolones.

Fluoroquinolones is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only. The FDA banned the extra label use of Fluoroquinolones in food producing animals in 1997 after determining that such use presented a risk to the public health. That ban is still in effect, see (21 CFR 530.41). "Extralabel use" means "actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling," see 21 CFR 530.3(a).

Since, the FDA has not established a safe level, tolerance level or safe concentration for Fluoroquinolones there is a zero tolerance level for Fluoroquinolones. Therefore, foods in which Fluoroquinolones are found are adulterated foods under the United States and Louisiana Food, Drug, and Cosmetics Acts.

Fluoroquinolones have been known to cause hypersensitivity or allergic reactions, toxicity-related reactions, and to an increased prevalence of infections due to antibiotic-resistant microorganisms. Hypersensitivity reactions can include life-threatening anaphylaxis, as well as urticaria, dermatitis, vomiting, and diarrhea. There is a significant chance that these reactions may be attributed to other factors, thereby causing a misdiagnosis, and subsequent mistreatment of a person's medical condition.

Toxicity can affect multiple organ systems and include peripheral neuropathies, seizures, phototoxicity, tendon rupture, fatal drug interactions and arthropathies in children. Fluoroquinolones should not be taken by pregnant and lactating women due to concern over the potential effect on a developing fetus.

The sale in Louisiana of seafood adulterated with Fluoroquinolones will expose Louisiana's citizens, including unborn children and nursing infants, to Fluoroquinolones and to the potential risks cited above, thereby presenting an imminent peril to the public's health, safety and welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to include China as geographic area to which the provisions of Title 7 Part XXXV.511 of the Louisiana Administrative Code apply.

This Rule becomes effective upon signature, August 31, 2007, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§511. Fluoroquinolones in Seafood Prohibited; Testing and Sale of

A. - K. ...

L. The commissioner declares that he has information that would lead a reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

- a. the country of Vietnam;
- b. the country of China.

2. All seafood harvested from or produced, processed or packed in any of the above listed geographic areas is hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 33:38 (January 2007), LR 33:

Bob Odom
Commissioner

0709#013

DECLARATION OF EMERGENCY

Department of Economic Development Office of Business Development

Small Business Bonding Assistance (LAC 19:II.Chapter 5)

The Department of Economic Development, Office of Business Development, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), hereby amends the following the Rules of the Small and Emerging Business Development Program, Mentor Protégé Tax Credit Program, LAC 19:II., Chapter 5. The Department of Economic Development has found an immediate need to amend the existing rules in accordance with Act 356 of the 2007 Regular Session of the Louisiana Legislature and R.S. 47:6026. The state needs to provide for the growth and stability of Louisiana's entrepreneurial construction business environment by making available ready sources of technical assistance necessary to support this environment. This

program is intended to provide technical and economic benefits to Louisiana-based contractors who will create and/or retain jobs for Louisiana citizens; and enhance the entrepreneurial construction business environment thereby expanding the economy of the state and enlarging quality jobs available in Louisiana.

This Emergency Rule is effective on September 7, 2007, and shall remain in effect for a maximum of 120 days or until a final Rule is promulgated, whichever occurs first. For more information you may call the Small and Emerging Business Development Program at (225) 342-4320.

Title 19

CORPORATIONS AND BUSINESS

Part II. Small and Emerging

Business Development Program

Chapter 5. Mentor Protégé Tax Credit Program

§501. General

A. The intent of the Mentor-Protégé Tax Credit Program Act of 2007 (Act 356 of 2007; R.S. 47:6026 the provisions of which shall hereinafter be referred to as "Act 356") is to facilitate the growth and stability of Louisiana's economy by fostering the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, joint venture partner, or supplier of local, state, federal, and private markets. These provisions are to be read in pari materiae with Act 356. For the purposes of this Rule, the "secretary" shall be either the Secretary of Economic Development or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 33:

§503. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity, large or small, which meets the criteria for participation as outlined below.

1. Mentor Firms—

a. committed and able to provide professional guidance and support to its protégés to facilitate their development and growth, particularly in the critical areas of private and public procurements in construction;

b. demonstrates favorable financial health, including profitability for at least the last two years;

c. demonstrates the capability to provide managerial or technical skills transfer or capacity building;

d. capable of contracting with private and public entities;

e. in "good standing" with the Secretary of State, and not in violation of any state statutes, rules, or governing policies;

f. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan; and

g. such other requirements by the secretary as shall be consistent with Act 356.

2. Protégé Firms—

a. is not an affiliate or related party of the mentor;

b. currently certified active in the Department of Economic Development's Small and Emerging Business

Development Program, or is registered in the state's Small Entrepreneurship/Hudson Initiative Program;

c. in "good standing" with the Secretary of State, and not in violation of any state statutes, rules, or governing policies;

d. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan; and

e. such other requirements by the secretary as shall be consistent with Act 356.

B. Mentor Application and Selection

1. Approval of the secretary shall be obtained upon receipt and satisfactory review of an application that provides the information contained in the department's Mentor Application Template (see Attachment A). Upon receipt, the secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a mentor under the rules and consistent with Act 356.

2. The application shall be reviewed by the Department of Economic Development to determine if the applicant qualifies as a mentor under the rules and consistent with Act 356.

3. Mentor applicant shall be notified by email of the status of the application.

C. Protégé Selection

1. Selection of the protégé is the responsibility, and at the discretion, of the mentor, with the concurrence of Louisiana Economic Development.

2. Protégés shall be selected from firms that are certified active in the Small and Emerging Business Development program, or are registered in the Small Entrepreneurship/Hudson Initiative program, and who are otherwise qualified under these rules before it begins participation in the mentor-protégé arrangement. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification in the Small and Emerging Business Development program or the Small Entrepreneurship/Hudson Initiative program. The protégé must meet the department's guidelines for certification in one or both of these programs as a condition of the Mentor/Protégé Agreement acceptance.

3. The mentor or Department of Economic Development will notify protégé of its application status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 33:

§505. The Mentor-Protégé Agreement

A. The Mentor/Protégé Agreement is a written agreement between the mentor and protégé, and approved by the Department of Economic Development.

B. The Mentor/Protégé Agreement, signed by the respective firms, shall be submitted to the Department of Economic Development for approval. The agreement shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

C. The Mentor/Protégé Agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement.

D. The Mentor/Protégé Agreement shall include information on the mentor's ability to provide managerial or technical skills transfer or capacity building;

E. The Mentor/Protégé Agreement shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

F. The submitted Mentor/Protégé Agreement shall be reviewed by Louisiana Economic Development and approved if the agreement is in compliance with the program's Mentor/Protégé guidelines and is consistent with Act 356.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 33:

§507. Internal Controls and Monitoring

A. The Secretary of the Department of Economic Development, or his designee, will designate and may change from time to time, one or more persons on his staff to act as the department's project representative or as the "Mentor/Protégé Agreement Monitor" for each Mentor/Protégé Agreement, to provide liaison between the mentor, protégé and the department, and to perform various duties which are specifically provided for in the Mentor/Protégé Agreement.

B. The mentor and protégé are responsible to inform the department of any problems, delays or adverse conditions which will materially affect their ability to attain agreement objectives, prevent the meeting of time schedules and goals, or preclude the attainment of agreement work units by established time schedules and goals. A statement of the action taken or contemplated by the mentor and protégé and any assistance which may be needed to resolve the situation shall accompany such disclosure.

C. Department controls will include:

1. approving, reviewing and evaluating Mentor/Protégé agreements for goals and objectives;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the program to determine program effectiveness and impact on the growth, stability and competitive position of small and emerging businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 33:

§509. The Mentor-Protégé Tax Credit

A. The following Mentor-Protégé tax credit rules shall be applicable to mentors who enter into a Mentor-Protégé Agreement.

1. The mentor may earn and apply for and, if qualified, be granted a refundable credit on any income or corporation franchise tax liability owed to the state by the mentor. The amount of the refundable credit shall be established by the Department of Economic Development and contained in the Mentor-Protégé Agreement.

2. The amount of the tax credits granted pursuant to the provisions of this Part shall not exceed fifty thousand dollars per Mentor/Protégé Agreement.

3. The mentor may participate in no more than two Mentor/Protégé Agreements in any one tax year without the prior written approval of the secretary.

4. The mentor/protégé tax credits granted by the Department of Economic Development in any fiscal year shall not exceed one million dollars.

5. The mentor/protégé tax credit shall be deemed earned on the date of the investment and may be claimed in the tax year in which the investment is made. The credit earned by an individual shall be claimed on their individual income tax return, the credit earned by an S-corporation shall be claimed as provided by R.S. 47:1675(G), the credit earned by a corporation other than an S-corporation shall be claimed on the corporation income and franchise tax return of the corporation, and the credit earned by a pass through entity shall be claimed on the income or franchise tax returns of the members or partners as provided by R.S. 47:1675(F).

6. A tax credit granted pursuant to this Part shall expire and have no value or effect on tax liability beginning with the twenty-first tax year after the tax year in which it was originally earned, applied for, and granted.

7. In the event it is subsequently determined by the Department of Economic Development that the mentor has not complied with the requirements of the Mentor/Protégé Agreement, or that the mentor was otherwise not qualified to earn a tax credit pursuant to this Part, any tax credits previously earned and applied against the mentor's tax liability shall be recaptured and added to the tax liability of the mentor for the year that such determination is made.

8. The secretary shall provide the mentor with all necessary and appropriate tax credit certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 33:

§511. Termination of Mentor Protégé Agreement.

A. Termination for Cause. The state may terminate the Mentor/Protégé Agreement for cause based upon the failure of the mentor or protégé to comply with the terms and/or conditions of the agreement, provided that the state shall give the mentor or protégé written notice specifying the failure. If within 30 days after receipt of such notice, the mentor or protégé shall not have either corrected such failure or, in a case which cannot be corrected in 30 days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the state may, at its option, place the mentor or protégé in default and the agreement shall terminate on the date specified in such notice. The mentor or protégé may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the state to comply with the terms and conditions of the agreement; provided that the mentor or protégé shall give the state written notice specifying the state's failure and a reasonable opportunity for the state to cure the defect.

B. Termination for Convenience. Either party may terminate the agreement at any time by giving 30 days written notice. The mentor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily. The state may amend and/or terminate the agreement due to budgetary reductions or changes in funding priorities by the state upon giving 30 days written notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 33:

§513. Non-Performance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), repealed LR 33:

§515. Conflict Resolution

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), repealed LR 33:

Fran Gladden
Deputy Secretary

0709#036

DECLARATION OF EMERGENCY

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Definitions and Requirements for Licensure (LAC 46:LX.503 and 705)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) et seq., the Licensed Professional Counselors Board of Examiners declaring an Emergency Rule to implement Act 206 of 2007, relative to the scope of practice for Licensed Professional Counselors. Additionally, the board is revising and clarifying its Rules on clinical supervision of interns.

The effective date of this Emergency Rule is September 20, 2007, and it shall be in effect for 120 days or until a final Rule is promulgated, whichever occurs first.

The Emergency Rule is necessary to implement Act 206 of 2007, to ensure access to Licensed Professional Counselor services and insurance coverage for same. Additionally, the Emergency Rule is necessary to clarify requirements for Licensed Professional Counselor students and interns as to clinical supervision and degree requirements.

There will be no adverse fiscal impact on the state as a result of this Rule, inasmuch as the Licensed Professional Counselors Board operates solely on self-generated funds. Further, it will benefit the consumer by helping to assure insurance coverage for Licensed Professional Counselor services.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors Chapter 5. License and Practice of Counseling

§503. Definitions for Licensed Professional Counselors

A. For purposes of this Rule, the following definitions will apply:

Board—the Louisiana Licensed Professional Counselors Board of Examiners.

Licensed Professional Counselor—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the counselor assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

Mental Health Counseling/Psychotherapy Services—those acts and behaviors coming within the practice of mental health counseling as defined in this Chapter, including diagnosis and treatment of conditions or disorders requiring mental health counseling/psychotherapy as defined in R.S.37:1103(4)(a). However, nothing in this Chapter shall

be construed to authorize any person licensed hereunder to administer or interpret test in accordance with the provision of R.S.37:2352(5), except as provided by LAC 46:LXIII.1702.E of the Louisiana Administrative Code, or engage in the practice of psychology or to prescribe, either orally or in writing, distribute, dispense, or administer any medications.

Practice of Mental Health Counseling/Psychotherapy—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which includes but are not limited to:

a. *Mental Health Counseling/Psychotherapy*—assisting an individual or group, through psychotherapy and the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

i. *Mental Health Counseling Practicum*. Licensure requires the completion of a mental health counseling/psychotherapy practicum totaling 100 clock hours. The practicum includes:

(a). a minimum of 40 hours of direct counseling/psychotherapy with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member.

(c). a minimum of one and one-half hours per week of group supervision with other students in similar practical or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

ii. *Mental Health Counseling Internship*. Licensure requires the completion of a mental health counseling/psychotherapy internship totaling 300 clock hours. The internship includes:

(a). a minimum of 120 hours of direct counseling/psychotherapy with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an approved on-site supervisor that meets the supervisor requirements of the university.

a.ii.(c). - e.iii. ...

f. *Graduate Degree*—the substance of which is professional mental health counseling from a regionally accredited university as defined in Chapter 7.

i. a CACREP accredited—program or its equivalent as determined by the board.

g. In addition, the above should not be construed to include degrees in disciplines licensed elsewhere by the state of Louisiana (e.g., social work, psychology) with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. *Supervision*—the process as defined in Chapter 7, §705 whereby a board-approved supervisor assists a

counselor intern in developing expertise in the use of mental health counseling/psychotherapeutic practices.

i. *Approved Supervisor*—an individual who has received a letter from the board certifying that he has met all the requirements for *approved supervisor* as defined in Chapter 7, §705.

j. *Counselor Intern*—an individual who has received a letter from the board certifying that he has met all the requirements for counselor intern as defined in Chapter 7, §705.

k. other definitions specific to licensed marriage and family therapists and MFT Interns can be found in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:

Chapter 7. Requirements for Licensure of Licensed Professional Counselors

§705. Supervised Experience of Counselor Intern

A. Supervision Requirements

1. Supervision is defined as assisting the counselor intern in developing expertise in methods of the professional mental health counseling practice and in developing self-appraisal and professional development strategies. Supervision must comply with standards as set by the board.

2. Pursuant to R.S. 37:1107(A), an applicant for license must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than the 2,000 hours of board-approved supervised experience within the aforementioned time limits. Only those applicants already receiving board-approved supervision prior to June 30, 1998 are exempt from the aforementioned time allowance.

a.i. Based on the above, the required 3,000 hours of counseling/psychotherapeutic experience shall be accrued in the following manner.

(a.) a minimum of 1,900 hours (up to 2,900) in direct counseling/psychotherapeutic services involving individuals, couples, families, or groups.

a.i.(b). - b. ...

c. To be eligible for supervision as a counselor intern, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503, Definitions and each of the following eight content area. In order for a course to fulfill a content area requirement, it

must include in a substantial manner, the area in the description for the content areas.

i. Counseling/Psychotherapy Theories of Personality. Description: counseling/psychotherapy theories including both individual and systems perspectives; research and factors considered in applications of counseling/psychotherapy theories; or theories of personality including major theories of personality.

ii. - iii. ...

iv. Techniques of Counseling/Psychotherapy. Description: basic interviewing, assessment, and counseling/psychotherapeutic skills; counselor characteristics and behaviors that influence helping processes including age, gender and ethnic differences, orientations, and skills; client characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and non verbal behaviors and personal characteristics, traits, capabilities, and life circumstances.

v. Group Dynamics, Processes, and Counseling/Psychotherapy. Description: principles of group dynamics including group process components, developmental stage theories, and group members' roles and behaviors; group leadership styles and approaches including characteristics of various types of group leaders and leadership styles; theories of group counseling/psychotherapy including commonalities, distinguishing characteristics, and pertinent research and literature; group counseling/psychotherapeutic methods including group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluation of effectiveness; approaches used for other types of group work, including task groups, prevention groups, support group, and therapy groups.

2.c.vi. - 5. ...

6. The process of supervision must encompass multiple modes of supervision, including regularly scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the counselor intern's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques. [Supervision as defined in these rules does not require the approved supervisor to be in the same room with the counselor intern during the intern's provision of services to clients.]

7. - 11. ...

12. The counselor intern must have received a letter from the board certifying that he has met all the requirements for Counselor Intern as defined in this Chapter.

A.13. - B.3. ...

C. Responsibility of Applicant under Supervision

1. During the period of supervised counseling/psychotherapy experience, the proper identification title is counselor intern. Counselor interns shall not identify themselves as LPC Interns.

2. - 3. ...

4. Counselor interns may not initiate a private practice during their period of supervised counseling/psychotherapy experience. Counselor interns employed within their supervisors' private practice setting, or in a similar outpatient

setting, cannot, under any circumstances bill clients directly for services they render, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

5. Upon completing of the required number of hours and a minimum two years of supervised counseling/psychotherapy experience, the counselor intern shall submit all license application forms, along with a fee to the board. A counselor intern must continue under supervision until notification from the board that licensure has been granted.

C.6. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), amended LR 21:465 (May 1995), LR 22:102 (February 1996), LR 24:1294 (July 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:132 (February 2003), LR 33:

Gloria Bockrath
Board Chair

0709#027

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis, and Treatment
Personal Care Services—Personal Care Workers Wage
Enhancement (LAC 50:XV.7321)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.7321 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for personal care services in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program (*Louisiana Register*, Volume 28, Number 2). The bureau promulgated an Emergency Rule to amend the provisions of the February 20, 2003 Rule governing the reimbursement methodology for personal care services in the EPSDT Program to implement an hourly wage pass-through, hereafter referred to as a wage enhancement, payment to providers for personal care workers (*Louisiana Register*, Volume 33, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule. This action is being taken to promote the health and well-being of Medicaid recipients by assisting providers to recruit and retain sufficient personal care workers to assure continued access to services.

Effective October 8, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing amends the provisions governing the reimbursement methodology for personal care services in the EPSDT Program to implement a wage enhancement payment to providers for personal care workers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 73. Personal Care Services

§7321. Reimbursement

A. ...

B. Personal Care Workers Wage Enhancement

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid recipients.

a. At least 75 percent of the wage enhancement shall be paid to personal care workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to personal care workers shall be the current minimum wage plus 75 percent of the wage enhancement.

2. Providers shall be required to submit a certified wage register to the department verifying the personal care workers' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the personal care worker(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

6. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

7. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to personal care workers may result in:

- a. forfeiture of eligibility for wage pass-through payments;
- b. recoupment of previous wage pass-through payments;
- c. Medicaid fraud charges; and
- d. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003), amended LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.

Secretary

0709#068

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

Inpatient Hospital Services, Non-Rural Private Hospitals,
Children's Specialty Hospitals Psychiatric Units
(LAC 50:V.911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.911 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement to children's specialty hospitals for inpatient psychiatric services provided to children who require emergency admissions. The bureau now proposes to adopt provisions to allow for the reimbursement of inpatient psychiatric services provided to children who require non-emergency admissions to the psychiatric units of children's specialty hospitals.

This action is being taken to avoid imminent threat to the health and welfare of children who are in need of inpatient psychiatric services. It is estimated that implementation of this Emergency Rule will increase expenditures for inpatient psychological services by approximately \$797,984 for state fiscal year 2007-2008.

Effective for dates of service on or after September 6, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing inpatient psychiatric services provided to children in children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural Private Hospitals

Subchapter A. General Provisions

§911. Children's Specialty Hospitals Psychiatric Units

A. A psychiatric sub-provider unit in a Medicare Prospective Payment System (PPS) exempt children's specialty hospital may enroll in the Medicaid Program. The hospital must submit an attestation to the department that the

unit meets the PPS exempt criteria outlined in 42 CFR 412.25 (except 412.25 (a)(1)(ii)). Enrollment of the new unit will be effective upon verification of the hospital's attestation by the department.

B. Changes in the number of beds in existing units may only be made at the start of the hospital's cost reporting period. The hospital must notify the department of changes in bed size at least 90 days prior to the end of the hospital's cost reporting period. Qualifying Medicaid services provided in these approved units shall be subjected to the existing pre-admission certification requirements for children and adolescents in distinct part psychiatric/substance abuse units in acute care general hospitals.

C. Reimbursement for services will be the inpatient psychiatric prospective per diem rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#015

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural Private Hospitals Reimbursement Rate Increase (LAC 50:V.953-959)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.953-959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6), free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 19, Number 6). In compliance with the directives of Act 17 of the 2006 Regular Session of the

Louisiana Legislature, the Bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the Medicaid reimbursement rates paid to private providers for inpatient and outpatient hospital services. In compliance with the directives of Act 18, the department now proposes to amend the reimbursement methodology for non-rural private inpatient hospital services to increase the Medicaid reimbursement rates paid for inpatient hospital services, including non-rural private (non-state) acute care hospitals, long term hospitals, hospital intensive neurological rehabilitation units and free-standing psychiatric hospitals and distinct part psychiatric units.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services. It is estimated that the implementation of this proposed Rule will increase expenditures for inpatient hospital services by approximately \$23,000,000 for state fiscal year 2007-08.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural Private Hospitals

Subchapter B. Reimbursement Methodology

§953. Non-State Acute Care Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to non-rural private (non-state) acute care hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§955. Long Term Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to long term hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§957. Hospital Intensive Neurological Rehabilitation Units

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to hospital intensive neurological rehabilitation care units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§959. Inpatient Psychiatric Hospital Services

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to private free-standing psychiatric hospitals and distinct part psychiatric units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Intermediate Care Facilities for the Mentally Retarded Direct Service Professionals Wage Enhancement (LAC 50:VII.32903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:VII.32903 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for intermediate care facilities for the mentally retarded (ICFs/MR) that included the Inventory for Client and Agency Planning (ICAP) instruments (*Louisiana Register*, Volume 31, Number 9).

The Bureau by Emergency Rule amended the provisions of the September 20, 2005 Rule governing the reimbursement methodology for ICFs/MR by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the facility (*Louisiana Register*, Volume 33, Number 2). It is the intent that this wage enhancement be paid to the direct care staff. This Emergency Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule. This

action is being taken to prevent imminent peril to the health and well-being of ICFs/MR residents by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff.

Effective October 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for intermediate care facilities for the mentally retarded by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for the Mentally Retarded

Chapter 329. Reimbursement

Subchapter A. Reimbursement Methodology

§32903. Rate Determination

A. - D.1.d. ...

e. Direct Service Provider Wage Enhancement. For dates of service on or after February 9, 2007, the direct care reimbursement in the amount of \$2 per hour to ICF-MR providers shall include a direct care service worker wage enhancement incentive. It is the intent that this wage enhancement be paid to the direct staff. Non compliance with the wage enhancement shall be subject to recoupment.

i. At least 75 percent of the wage enhancement shall be paid to the direct support professional and 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

ii. The wage enhancement will be added on to the current ICAP rate methodology as follows:

(a). per diem rates for recipients residing in 1-8 bed facilities will increase \$16;

(b). per diem rates for recipients residing in 9-16 bed facilities will increase \$15; and

(c). per diem rates for recipients residing in 16+ bed facilities will increase \$8;

D.2. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2253 (September 2005).

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facilities Direct Support Professionals Wage Enhancement (LAC 50:VII.1305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:VII.1301 and §1305 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule to establish a prospective payment system for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology (*Louisiana Register*, Volume 28, Number 8). The August 20, 2002 Rule was subsequently amended to adopt provisions governing a quarterly adjustment of individual nursing facility rates based on overall case mix and to allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register*, Volume 32, Number 12). The bureau by Emergency Rule amended the provisions of the December 20, 2006 Rule governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff employed with the nursing facility (*Louisiana Register*, Volume 33, Number 2). It is the intent that this wage enhancement be paid to the direct care staff. This Emergency Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule. This action is being taken to promote the health and well-being of nursing facility residents by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff.

Effective October 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities by increasing the reimbursement paid to providers to implement a wage enhancement for direct care staff.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. - D.1.h.Example. ...

i. For dates of service on or after February 9, 2007, the facility-specific direct care rate will be increased by a \$4.70 wage enhancement prior to the case-mix adjustment for direct care staff. The \$4.70 wage

enhancement will be included in the direct care component of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1474 (June 2002), repromulgated LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facility Minimum Licensing Standards Emergency Preparedness (LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1).

Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the Governor's Office of Homeland Security, to adopt provisions governing emergency preparedness requirements for nursing facilities. In compliance with the directives of Act 540, the department amended the January 20, 1998 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department by Emergency Rule amended the December 20, 2006 Rule to further revise and clarify the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 33, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 30, 2007 Emergency Rule. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who are

residents of nursing facilities that may be evacuated as a result of declared disasters or other emergencies.

Effective October 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing emergency preparedness requirements for nursing facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Louisiana Model Nursing Home Emergency Plan and these regulations. The plan shall be designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. Upon the department's request, a nursing facility shall forward its emergency preparedness information and documentation for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

- i. a copy of the nursing facility's emergency preparedness plan;
- ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;
- iii. the number of operational beds; and
- iv. census information, including transportation requirements for residents.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. The emergency preparedness plan shall be individualized and site specific. At a minimum, the nursing facility shall have a written emergency preparedness plan that addresses:

1. the nursing facility's procedures and criteria for determining if they should evacuate the facility or shelter in place;

a. for evacuation determinations, the nursing facility's plan shall provide for a primary sheltering host site(s) and alternative sheltering host sites outside the area of risk. These host sites must be verified by written agreements or contracts;

b. if the state or parish Office of Homeland Security and Emergency Preparedness (OHSEP) has ordered a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority;

c. the nursing facility shall provide a plan for monitoring weather warnings and watches and evacuation

orders from local and state emergency preparedness officials;

2. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including provisions for adequate, qualified staff as well as provisions for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. an executable plan for coordinating transportation services, that shall be air-conditioned when available, required for evacuating residents to another location, including the following:

- a. a triage system for residents requiring specialized transportation and medical needs; and
- b. a written binding transportation agreement(s) for evacuating residents to a safe location; or
- c. a written plan for using transportation equipment owned by, or at the disposal of, the facility;

5. the procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating. If the facility evacuates, notification shall include:

- a. the date and approximate time that the facility is evacuating;
- b. the place or location to which the nursing facility is evacuating, including the:
 - i. name;
 - ii. address; and
 - iii. telephone number;
- c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;

6. the procedure or method whereby each nursing facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation;

7. the procedure or method whereby each nursing facility resident has the following minimum information included with him during all phases of an evacuation:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information;

8. the procedure for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:

- a. water;
- b. food;
- c. nutritional supplies and supplements;
- d. medication; and
- e. other necessary supplies.

9. the procedures for ensuring that licensed nursing staff accompany residents on buses or other transportation during all phases of evacuation;

10. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

11. a plan for sheltering in place if the nursing facility determines that sheltering is appropriate;

a. if the nursing facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies on hand to include:

- i. drinking water, a minimum of one gallon per day per person;
- ii. water for sanitation;
- iii. non-perishable food, including special diets;
- iv. medications;
- v. medical supplies;
- vi. personal hygiene supplies; and
- vii. sanitary supplies;

b. a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The communication plan shall include:

- i. the type of equipment;
- ii. back-up equipment;
- iii. the equipment's testing schedule; and
- iv. the power supply for the equipment being used;

and

c. generator capabilities to include:

- i. HVAC system;
- ii. sewerage system;
- iii. water system;
- iv. medical equipment;
- v. refrigeration;
- vi. lights;
- vii. communications; and
- viii. a plan for a seven day supply of fuel; and

12. the nursing facilities subject to the provisions of Louisiana R.S. 40:2009.25(A) shall have conducted a risk assessment of their facility to determine facility integrity in determining whether sheltering in place is appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the following:

- a. the facility's latitude and longitude;
- b. flood zone determination, using the nursing facility's latitude and longitude;
- c. elevations of the building(s), HVAC system(s), generator(s), fuel storage, electrical service and sewer motor, if applicable;
- d. a building evaluation to include:
 - i. the construction type;
 - ii. roof type;
 - iii. windows and shutters;
 - iv. wind load; and
 - v. interior safe zones;
- e. an evaluation of each generator's fuel source(s), including refueling plans, output of the generator(s) and electrical load of required emergency equipment;
- f. an evaluation of surroundings, including lay-down hazards and hazardous materials, such as:
 - i. trees;
 - ii. towers;
 - iii. storage tanks;
 - iv. other buildings; and
 - v. pipe lines;
- g. an evaluation of security for emergency supplies;
- h. Sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the Maximum's of the Maximum Envelope of Waters (MOM); and

i. floor plans, of the building being used as the facility's shelter site, that indicate:

- i. the areas being used as shelter or safe zones;
- ii. emergency supply storage areas;
- ii. emergency power outlets;
- iii. communications center;
- iv. posted emergency information; and
- v. pre-designated command post.

C. Emergency Plan Activation, Review and Summary

1. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of Louisiana R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's nursing facility emergency preparedness manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification.

D. The nursing facility's plan shall be submitted to the OHSEP. Any recommendations by the OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

E. ...

F. Evacuation, Temporary Relocation or Temporary Cessation

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and that nursing facility sustains damages due to wind, flooding or experiences power outages for longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

b. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

c. The Health Standards Section will give priority to reopening surveys.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the nursing facility does not sustain damages due to wind, flooding or experiences power outages for longer than 48 hours, the nursing facility may be reopened without the necessity of the required surveys. Prior to reopening, the

nursing facility shall notify the Health Standards Section in writing that the facility is reopening.

G. Authority to Reopen and Execution of Emergency Preparedness Plan

1. Before reopening at its licensed location, the nursing facility shall submit a written initial summary within 14 days from the date of evacuation to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. - d. ...

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

a. - c. Repealed.

H. Sheltering in Place

1. If a nursing facility shelters in place at its licensed location during a declared disaster or other emergency, the nursing facility shall submit a written initial summary within 14 days from the date of the emergency event to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

I. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an evacuation order issued by the state or parish OHSEP, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed five days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.

b. The extension will be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension will be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and

the Health Standards Section and OHSEP shall be informed of the residents' new location(s).

J. Notification

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, the nursing facility must immediately give notice to the Health Standards Section and OHSEP by facsimile or email of the following:

a. the date and approximate time of the evacuation;

b. the sheltering host site(s) to which the nursing facility is evacuating; and

c. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

2. Within 48 hours, the nursing facility must notify the Health Standards Section and OHSEP of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section and OHSEP with a list of all residents and their locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 33:

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#073

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Professional Services Program
Adult Immunizations
(LAC 50:IX.Chapters 83-87)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.Chapters 83-87 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to allow for the coverage of certain adult immunizations provided by a medical professional for influenza, pneumococcal and human papillomavirus (HPV) diseases. These immunizations will be covered for Medicaid

recipients who are age 21 or older. In compliance with the directives of Act 18, the Department now proposes to adopt provisions to allow for the reimbursement of adult immunizations for influenza, pneumococcal and HPV diseases. This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring recipient access to preventive care to aid in the eradication of serious illnesses that may disrupt normal family functioning. It is estimated that the implementation of this proposed Rule will increase expenditures for professional services by approximately \$10,428,811 for state fiscal year 2007-08.

Effective October 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions for the coverage of certain adult immunizations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 7. Immunizations

Chapter 83. Children's Immunizations (Reserved)

Chapter 85. Adult Immunizations

§8501. General Provisions

A. Effective October 1, 2007, the Department shall provide Medicaid coverage for certain immunizations administered by enrolled Medicaid providers for adult recipients, age 21 or older. Adult immunizations shall be covered for the following diseases:

1. influenza;
2. pneumococcal; and
3. human papillomavirus (HPV).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§8503. Coverage Restrictions

A. HPV Immunizations. Immunizations for HPV are restricted to female recipients from age 21 through 26 years old.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Chapter 87. Reimbursement

§8701. Reimbursement Methodology

A. Adult Immunizations. Providers shall be reimbursed according to the established fee schedule for the vaccine and the administration of the vaccine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#062

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

Prosthetics and Orthotics Reimbursement Rate Increase
(LAC 50:XVII.501, 1505, 1707, 1907, and 10117)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XVII.501 and to repeal LAC 50:XVII.1505, 1707, 1907 and 10117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed and repromulgated provisions governing prosthetic and orthotic devices in the Medical Assistance Program (*Louisiana Register*, Volume 31, Number 7.) The bureau now proposes to amend the July 2005 Rule to repeal the reimbursement methodology for specific prosthetic and orthotic items and to increase the reimbursement rate.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to orthotic and prosthetic devices by encouraging the continued participation of providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for orthotic and prosthetic devices by approximately \$983,118 for state fiscal year 2007-2008.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. Effective for dates of service on or after September 6, 2007, the reimbursement for prosthetic and orthotic devices is 90 percent of the 2007 Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, unless otherwise stipulated. If an item is not available at 90 percent of the 2007 Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

1. This rate does not apply to prosthetics and orthotics that are:

- a. already priced at a higher amount than 90 percent of the 2007 Medicare Fee Schedule; or
- b. not included on the 2007 Medicare Fee Schedule, such as customized items for which there is no established fee that must be individually priced.

B. Items not listed on the Medicare Fee Schedule will continue to be priced in accordance with current policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 33:

Subpart 3. Prothhetic Devices

Chapter 15. Artificial Eyes, Scleral Shell, and Related Services

§1505. Reimbursement

A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 33:

Chapter 17. Breast or Mammary Prostheses

§1707. Reimbursement

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 33:

Chapter 19. Support and Surgical Stockings

§1907. Reimbursement

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 33:

Subpart 5. Orthotic Devices

Chapter 101. General Provisions

§10117. Reimbursement

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1599 (July 2005), repealed LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#014

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

School-Based Health Centers
(LAC 50:IX.Chapters 71-79)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.Chapters 71-79 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:31.3, and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Adolescent School Health Initiative Act of 1991, R.S. 40:31.3, directed the Department of Health and Hospitals, Office of Public Health to establish an adolescent school health initiative to facilitate and encourage development of comprehensive health centers in public middle and secondary schools to provide preventive health services, counseling and acute health services to students. In compliance with the directives of the Adolescent School Health Initiative Act, the department established School Based Health Centers (SBHCs) to provide convenient access to preventive and primary health services for students who might otherwise have limited or no access to health care. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions to allow for Medicaid coverage and reimbursement of mental health services provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services students already receive. This action is being taken to promote the public health and well-being of children by providing access to needed mental health services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$654,588 for state fiscal year 2007-2008.

Effective August 25, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to allow for Medicaid coverage of mental health services provided to students by school based health centers.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 5. School-Based Health Centers

Chapter 71. General Provisions

§7101. Purpose

A. The Adolescent School Health Initiative Act of 1991 authorized the development of an adolescent school based health initiative to facilitate and encourage the provision of comprehensive health centers in public middle and secondary schools.

B. School Based Health Centers (SBHCs) provide convenient access to preventive and primary health care services for students who might otherwise have limited or no access to health care, and meet the physical and emotional health needs of adolescents at their school sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Chapter 73. Provider Participation

§7301. Provider Qualifications

A. The SBHC classification must be verified by the Office of Public Health, Adolescent School Health Program when applying for a Medicaid provider number.

1. Documentation of this verification must be provided upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§7303. Standards of Participation

A. School Based Health Centers must comply with the applicable licensure, certification and program participation standards for all services rendered. The SBHC shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be rendered;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. The SBHC shall provide comprehensive primary medical, social and mental health services, as well as health education, promotion and prevention services to meet the psychosocial and physical health needs of students enrolled in the SBHC in the context of their family, culture and environment.

C. School Based Health Centers shall acquire written parental consent in order to enroll a student as a patient.

D. The SBHC and all partners involved in service delivery must adhere to Health Insurance Portability and Accountability Act (HIPAA) privacy policies and procedures.

E. The SBHC must be enrolled as a KIDMED screening provider in addition to enrollment for providing any other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Chapter 75. Services

§7501. Scope of Services

A. The Medicaid Program provides reimbursement for medically necessary health care services provided by School Based Health Centers including, but not limited to, the following services:

1. comprehensive health care assessments and screenings;

2. preventive health care services;
3. diagnosis and treatment;
4. management of chronic conditions;
5. laboratory tests; and
6. mental health services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Chapter 77. Staffing Requirements

§7701. Minimum Staffing Requirements

A. School Based Health Centers shall have, at a minimum, the following health care providers on staff:

1. one or more primary care providers, including a:
 - a. physician;
 - b. physician assistant; or
 - c. nurse practitioner;
2. a medical director; and
3. a master's level social worker or licensed mental health professional.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§7703. Staffing Qualifications for Mental Health Services

A. Mental health services rendered in Medicaid-enrolled SBHCs shall be provided by the following licensed, professional staff:

1. psychiatrists;
2. psychologists;
3. clinical nurse specialists;
4. nurse practitioners;
5. licensed clinical social workers; or
6. licensed professional counselors.

B. Professionals providing mental health services must:

1. be licensed and provide services under the provisions and scope of their Louisiana Practice Act;
2. be enrolled in Louisiana Medicaid and linked to the SBHC where services are rendered; and
3. adhere to any additional training or educational requirements in the mental health area as set forth in Medicaid SBHC policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Chapter 79. Reimbursement

§7901. Reimbursement Methodology

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan.

B. Medicaid covered services provided by SBHCs shall be reimbursed at the lower of either:

1. the provider's billed charges minus any third party coverage; or
2. the state's established schedule of fees for the service rendered, minus any third party coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Implementation of the provisions of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#009

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Children's Choice—Direct Support Professionals Wage Enhancement (LAC 50:XXI.12101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.12101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for the Children's Choice Waiver (*Louisiana Register*, Volume 28, Number 9). The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions of the September 20, 2004 Rule governing the reimbursement methodology for the Children's Choice Waiver to implement an hourly wage pass-through payment to providers for direct care staff. The department amended the provisions of the February 9, 2007 Emergency Rule to also include a wage pass-through, hereafter referred to as a wage enhancement, payment for direct support professionals who provide Center-Based Respite services to Children's Choice recipients (*Louisiana Register*, Volume 33, Number 5). The department now proposes to amend the February 9, 2007 and May 20, 2007 Emergency Rules to further clarify the provisions governing the wage enhancement payment.

This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services. It is estimated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2007-2008.

Effective September 20, 2007, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions of the February 9, 2007 and May 20, 2007 Emergency Rules governing the reimbursement methodology for the Children's Choice Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - B.4. ...

5. Direct Support Professionals Wage Enhancement.

a. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Family Support services to Children's Choice recipients.

b. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Center-Based Respite services to Children's Choice recipients.

c. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

d. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

e. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

i. gross wage paid to the direct support professional(s);

ii. total number of direct support hours worked; and

iii. the amount paid in employee benefits.

f. A separate report shall be submitted for paid overtime.

g. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

h. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

i. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

j. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

i. forfeiture of eligibility for wage enhancement payments;

- ii. recoupment of previous wage enhancement payments;
- iii. Medicaid fraud charges; and
- iv. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#063

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers New Opportunities Waiver—Direct Support Professionals Wage Enhancement (LAC 50:XXI.14101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services implemented a new home and community based services waiver, the New Opportunities Waiver (NOW), designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions of the June 20, 2004 Rule governing the reimbursement methodology for the New Opportunities Waiver to implement a wage pass-through payment for direct support professionals who provide Individual and Family Support Services to NOW recipients (*Louisiana Register*, Volume 33, Number 2). The department amended the provisions of the February 9, 2007 Emergency Rule to also include a wage pass-through payment, hereafter referred to as a wage enhancement, for direct support professionals who provide Day Habilitation,

Supported Employment, Employment-Related Training and Center-Based Respite services to NOW recipients (*Louisiana Register*, Volume 33, Number 5). The department now proposes to amend the February 9, 2007 and May 20, 2007 Emergency Rules to further clarify the provisions governing the wage enhancement payment.

This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services. It is estimated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2007-2008.

Effective September 20, 2007, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions of the February 9, 2007 and May 20, 2007 Emergency Rules governing the reimbursement methodology for the New Opportunities Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 11. New Opportunities Waiver

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. - E.1. ...

F. Direct Support Professionals Wage Enhancement

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Individual and Family Support Services to New Opportunities Waiver recipients.

2. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to New Opportunities Waiver recipients:

- a. Day Habilitation;
- b. Supported Employment;
- c. Employment-Related Training; and
- d. Center-Based Respite

3. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

4. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

5. Providers shall be required to submit a certified wage register to the department verifying the direct support professional's gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

6. A separate report shall be submitted for paid overtime.

7. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

8. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

9. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

10. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

a. forfeiture of eligibility for wage enhancement payments;

b. recoupment of previous wage enhancement payments;

c. Medicaid fraud charges; and

d. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Supports Waiver—Direct Support Professionals
Wage Enhancement
(LAC 50:XXI.6101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.Chapter 61 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities implemented a

home and community-based services waiver, the Supports Waiver, to promote the independence of individuals with developmental disabilities by creating vocational and community inclusion options to enhance their lives (*Louisiana Register*, Volume 32, Number 9). The department promulgated an Emergency Rule to amend the provisions of the September 20, 2006 Rule governing the reimbursement methodology for the Supports Waiver to implement a wage enhancement payment to providers for direct support professionals (*Louisiana Register*, Volume 33, Number 5). The department now proposes to amend the May 20, 2007 Emergency Rule to further clarify the provisions governing the wage enhancement payment. This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services. It is estimated that implementation of this emergency will be cost neutral for state fiscal year 2007-2008.

Effective September 20, 2007, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions of the May 20, 2007 Emergency Rule governing the reimbursement methodology for the Supports Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based

Services Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

I. Direct Support Professionals Wage Enhancement

1. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to Support Waiver recipients:

- a. habilitation;
- b. supported employment;
- c. day habilitation;
- d. center-based respite; and
- e. prevocational services.

2. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

3. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

4. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending March 31, 2007. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

5. A separate report shall be submitted for paid overtime.

6. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

7. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

8. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

9. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

a. forfeiture of eligibility for wage enhancement payments;

b. recoupment of previous wage enhancement payments;

c. Medicaid fraud charges; and

d. disenrollment from the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Supports Waiver—Support Coordination Services (LAC 50:XXI.5715, 5901 and 6101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities adopts LAC 50:XXI.5715 and amends §§5901 and 6101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities implemented a new home and community-based

services waiver, called the Supports Waiver, to promote the independence of individuals with developmental disabilities by creating vocational and community inclusion options to enhance their lives (*Louisiana Register*, Volume 32, Number 9).

Waiver recipients currently receive support coordination for the Supports Waiver through targeted case management services provided under the Medicaid State Plan and paid from all state general funds, pending approval of the associated Medicaid State Plan Amendment. The department by Emergency Rule amended the September 20, 2006 Rule governing the services covered in the Supports Waiver to include support coordination as a covered service (*Louisiana Register*, Volume 33, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2007 Emergency Room. This action is being taken to secure enhanced federal funding and eliminate the reliance on state general funds for support coordination services provided to Supports Waiver recipients.

Effective October 19, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing the Supports Waiver to establish support coordination as a covered service.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community

Based Services Waivers

Subpart 5. Supports Waiver

Chapter 57. Covered Services

§5715. Support Coordination

A. Support coordination is a service that will assist recipients in gaining access to all of their necessary services, as well as medical, social, educational and other services, regardless of the funding source for the services. Support coordinators shall be responsible for on-going monitoring of the provision of services included in the recipient's approved CPOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Chapter 59. Provider Participation

§5901. General Provisions

A. - C.5. ...

6. Support Coordination. Providers must be licensed as support coordination agencies and enrolled in the Medicaid Program to deliver these services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 33:

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

J. Support Coordination. Support coordination shall be reimbursed at a fixed monthly rate in accordance with the terms of the established contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Targeted Case Management—Individuals with
Developmental Disabilities
(LAC 50:XV.10501, 10505 and 11701)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XV.10501, 10505 and 11701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing case management services provided to targeted population groups and certain home and community-based services waiver recipients (*Louisiana Register*, Volume 25, Number 7). In May 2004, the bureau repromulgated the July 1999 Rule in a codified format in Title 50 of the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities implemented a new home and community-based services waiver for persons with developmental disabilities, called the Supports Waiver. The department amended the provisions governing targeted case management to include recipients receiving services in the Supports Waiver and to change the name of the Mentally Retarded/Developmentally Disabled Waiver (*Louisiana Register*, Volume 32, Number 9). Case management services for Supports Waiver recipients are currently being paid from all state general funds pending approval of the associated Medicaid State Plan Amendment. The department by Emergency Rule amended the provisions of the September 20, 2006 Rule governing targeted case management to remove the coverage of case management services for

Supports Waiver recipients (*Louisiana Register*, Volume 33, Number 6). Case management services shall be provided as support coordination services and included as a covered service in the Supports Waiver program. This Emergency Rule is being promulgated to continue the provisions of the June 20, 2007 Emergency Rule. This action is being taken to secure enhanced federal funding and eliminate the reliance on state general funds for case management services provided to Supports Waiver recipients.

Effective October 19, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing Targeted Case Management to remove the coverage of case management services for Supports Waiver recipients.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10501. Participation Requirements

A. - D.7. ...

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the New Opportunities Waiver, Elderly and Disabled Adult Waiver and Children's Choice Waiver programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager or other service providers and the right to change providers or case managers;

9. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 33:

§10505. Staff Education and Experience

A. - E.1.d. ...

e. Targeted EPSDT; and

f. Children's Choice Waiver.

2. - 2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 33:

Chapter 117. Individuals with Developmental Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with developmental disabilities who are participants in the New Opportunities Waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office

for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is the person responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Home and Community-Based Services Waiver Adult Day Health Care—Direct Service Professionals Wage Enhancement (LAC 50:XXI.3109)

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends LAC 50:XXI.3109 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services adopted provisions governing the reimbursement methodology for the Adult Day Health Care (ADHC) Waiver (*Louisiana Register*, Volume 30, Number 9). The department, by Emergency Rule, amended the provisions of the September 20, 2004 Rule governing the reimbursement methodology for the ADHC Waiver by increasing reimbursement to providers to implement a wage enhancement for direct care staff (*Louisiana Register*, Volume 33, Number 2). It is the intent that the wage enhancement be paid to the direct care staff. This Emergency Rule is being promulgated to continue the provisions of the February 9, 2007 Emergency Rule. This action is being taken to promote the health and well-being of waiver recipients by assuring continued access to services through assisting providers to recruit and retain sufficient direct care staff.

Effective October 9, 2007, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends the provisions governing the reimbursement methodology for the Adult Day Health Care Waiver by increasing reimbursement to providers to implement a wage pass-through payment for direct care workers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 3. Adult Day Health Care

Chapter 31. Reimbursement

§3109. Provider Reimbursement

A. - B.7.a. ...

i. For dates of service on or after February 9, 2007, the facility-specific direct care price will be increased by \$1.11 to include a direct care service worker wage enhancement. It is the intent that this wage enhancement be paid to the direct care service workers.

7.b. - 8.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2048 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Home and Community-Based Services Waivers Elderly and Disabled Adults Waiver Direct Service Professionals Wage Enhancement (LAC 50:XXI.9101)

The Department of Health and Hospitals, Office of Aging and Adult Services adopts LAC 50:XXI.Chapter 91 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the Elderly and Disabled Adults (EDA) Waiver (*Louisiana Register*, Volume 28, Number 9). The bureau promulgated an Emergency Rule to adopt a

reimbursement methodology for the EDA Waiver and provisions to implement an hourly wage pass-through, hereafter referred to as a wage enhancement, payment to providers for direct care staff (*Louisiana Register*, Volume 33, Number 2). The department now proposes to amend the February 9, 2007 Emergency Rule to further clarify the provisions governing the wage enhancement payment.

This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services. It is estimated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2007-2008.

Effective September 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services amends the provisions of the February 9, 2007 Emergency Rule governing the reimbursement methodology for the Elderly and Disabled Adults Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 7. Elderly and Disabled Adults Waiver

Chapter 91. Reimbursement

§9101. Reimbursement Methodology

A. Reimbursement for EDA Waiver services shall be a prospective flat rate for each approved unit of service provided to the recipient.

B. Direct Support Professionals Wage Enhancement

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide home and community-based waiver services to Medicaid recipients. Direct support professionals are persons who deliver direct care services such as assistance with the activities of daily living.

a. At least 75 percent of the wage enhancement shall be paid in the aggregate to the direct support professionals as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

2. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

a. gross wage paid to the direct support professional(s);

b. total number of direct support hours worked; and

c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

6. The wage enhancement payments reimbursed to providers are subject to audit by the department.

7. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

a. forfeiture of eligibility for wage enhancement payments;

b. recoupment of previous wage enhancement payments;

c. Medicaid fraud charges; and

d. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#064

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Personal Care Services—Long Term Personal Care Workers Wage Enhancement (LAC 50:XV.12917)

The Department of Health and Hospitals, Office of Aging and Adult Services amends LAC 50:XV.12917 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the coverage of personal care services as an optional service under the Medicaid State Plan (*Louisiana Register*, Volume 29, Number 6). The Department of Health and Hospitals, Office of Aging and Adult Services promulgated an Emergency Rule to amend the provisions of the June 20, 2003 Rule governing the reimbursement methodology for personal care services to implement an hourly wage pass-through, hereafter referred

to as a wage enhancement, payment to providers for personal care workers (*Louisiana Register*, Volume 33, Number 2). The department now proposes to amend the February 9, 2007 Emergency Rule to further clarify the provisions governing the wage enhancement payment.

This action is being taken to promote the health and well-being of Medicaid recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services. It is estimated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2007-2008.

Effective September 20, 2007, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions of the February 9, 2007 Emergency Rule governing the reimbursement methodology for personal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12917. Reimbursement Methodology

A. ...

B. Personal Care Workers Wage Enhancement.

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid recipients.

a. At least 75 percent of the wage enhancement shall be paid in the aggregate to personal care workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. Effective September 20, 2007, the minimum hourly rate paid to personal care workers shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

2. Providers shall be required to submit a certified wage register to the department verifying the personal care workers' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the personal care worker(s);
- b. total number of personal care hours worked; and
- c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

6. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

7. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to personal care workers may result in:

a. forfeiture of eligibility for wage enhancement payments;

b. recoupment of previous wage enhancement payments;

c. Medicaid fraud charges; and

d. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0709#067

DECLARATION OF EMERGENCY

Department of Labor

Office of Unemployment Insurance Administration

Lost Wage Benefits for Domestic Violence Victims (LAC 40:IV.Chapter 5)

The Department of Labor (DOL) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate rules to enable Act 421 of the 2007 Regular Legislative Session.

The Emergency Rules are necessary to implement the "Lost Wage Benefits for Domestic Violence Victims Act" [R.S. 23:1770-1775] and to allow the Department of Labor to effectively administer this program effective August 15, 2007. A delay in promulgating these rules would have an adverse impact on the financial welfare of victims of domestic violence who are not eligible for regular unemployment insurance benefits under the provisions of R.S. 23:1601(1) and (2). Studies have shown that 96 percent of employed domestic violence victims experience some type of work-related problem due to the violence. Two to four million American women are abused each year. Domestic violence is a serious social concern which plagues society. Louisiana ranks second in the nation for homicides related to domestic abuse. The Louisiana Legislature has recently enacted domestic violence unemployment insurance legislation that will aid domestic violence victims in their ability to escape a violent relationship. It will further assist battered victims in obtaining temporary wage replacement when they must leave or are separated from their jobs because of domestic violence. Prior to this domestic violence unemployment insurance legislation, Louisiana had no vehicle in place to address the need for victims of domestic violence to receive unemployment insurance benefits. This

new legislation is a powerful weapon to help support victims in their efforts to ensure safety for themselves and their families when they confront a domestic violence crisis. It is imperative that the Department of Labor proceed expeditiously with the disposition of the domestic violence unemployment insurance program. Although domestic violence is not a new phenomenon, it is an imminent peril to public health, safety, and welfare that requires immediate action on operations, implementation, and use of funds now made available by the Act to provide required services in response to the immediate threat to the public. Failure to adopt this Rule on an emergency basis may prohibit battered victims from escaping violent relationships by removing their ability to sustain themselves and their children.

This Declaration of Emergency is effective August 15, 2007, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., or until regular rules are adopted in accordance with the Administrative Procedure Act, whichever occurs first.

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security

Chapter 5. Lost Wage Benefits for Domestic Violence Victims

§501. Terminology Pertaining to Lost Wages for Domestic Violence Victims

A. Definitions

Domestic Abuse—includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. Minors are not excluded. *Domestic abuse* also includes abuse of persons 60 years of age or older and any disabled person 18 years of age or older when committed by an adult child or adult grandchild.

Family Members—spouses, former spouses, parents and children stepparents, stepchildren, foster parents and foster children.

Household Members—any person of the opposite sex presently or formerly living in the same residence with the defendant as a spouse whether married or not, who is seeking protection under this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§503. Administration of Funds

A. Benefits under the Lost Wage Benefits for Domestic Violence Victims Act are provided to individuals who have lost their employment due to domestic violence and who, otherwise, would not be eligible for unemployment insurance benefits. Towards this end, it shall be the agency's intent to apply all rules, regulations, and laws of the unemployment insurance program with the exception of those clearly excluded by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§505. Manner of Distribution

A. The application for and the distribution of benefits under this program shall be in the same manner and using the same methods as those of regular unemployment insurance benefits.

B. The records shall be maintained in a manner that allows for the monitoring and auditing of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§507. Maximum Benefit Amount

A. The total benefit amount payable under the domestic violence victims program will be reduced by any amount paid from regular unemployment benefits and shall not exceed the maximum benefit amount established in the monetary determination of the unemployment insurance claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§509. Filing Period

A. A claimant shall be eligible to file one new claim per calendar year. The term *new claim* is the first initial claim filed to request a determination of entitlement to and eligibility for compensation which results in an agency generated document of an appealable monetary determination provided to the potential claimant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§511. Deductions

A. The following shall not be deducted from benefits of domestic violence victims:

1. severance pay;
2. vacation pay;
3. holiday pay;
4. bonus pay;
5. WARN Act pay;
6. wages in lieu of notice;
7. separation/dismissal pay;
8. tips/gratuities;
9. worker's compensation;
10. military retirement pay; and
11. other periodic payment based on previous work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

§513. Availability of Claimant

A. The requirements that an individual must be able to work, available for work and making an active search for work each week will not apply if the conditions that qualified the individual for the program do not permit him/her to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:

John Warner Smith
Secretary

0709#001

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division
and**

**Department of Social Services
Office of the Secretary**

School Readiness Tax Credits
(LAC 61:I.1903)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue and the Department of Social Services to use emergency procedures to establish Rules, R.S. 36:474, R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103, which allow the departments to make reasonable rules and regulations, the Secretary of the Department of Revenue and the Secretary of the Department of Social Services hereby find that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective upon approval of the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs or the passage of 60 days following publication whichever occurs first, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to effectuate the intent of the legislature. The statutes in question clearly state that the Senate Committee of Revenue and Fiscal Affairs and the House Committee on Ways and Means have 60 days after publication of the Emergency Rule to take action on such Rule. Additionally, by statute any Rule needs to be effective by December 1 in order to be applicable to the tax year beginning January 1, 2008. A delay in promulgating this Rule would have an adverse impact on the entire school readiness tax credit program.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

By the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1903. Administration of the School Readiness Tax Credits

A. General School Readiness Tax Credit Provisions

1. For purposes of the tax credits in R.S. 47:6101 through 6109, a child will be deemed to be five years of age or less if the child is five years of age or less on any day of the taxable year for which a credit is claimed.

2. The term "business" as used in this regulation means any for-profit or not-for-profit entity not including any individual operating in their personal capacity.

3. The credits provided for in R.S. 47:6101 through 6109 are applicable against individual income tax and corporation income and franchise tax but not against income taxes imposed on estates and trusts.

B. Child Care Expense Tax Credit

1. The Department of Revenue shall make available to qualifying child care facilities a credit certificate to be given to each taxpayer claiming the child care expense tax credit. The credit certificate will consist of a provider portion of the certificate and a taxpayer portion of the certificate.

2. The provider shall complete the provider portion of the credit certificate and shall submit the certificate to each taxpayer who had a child at the facility during the calendar year no later than January 31 of the succeeding year. The provider portion of the credit certificate will include, but not be limited to, the following information: the child care facility name, the child care facility star rating, the child care facility Louisiana tax identification number, the child care facility Department of Social Services license number, the name of the child attending the facility and the issue date and effective year. The provider shall submit to the Department of Revenue a list of all taxpayers to whom a certificate was issued.

3. The taxpayer shall complete the taxpayer portion of the certificate which will include, but not be limited to, the following information: the name and social security number of the taxpayer claiming the credit and the name, social security number and date of birth for the qualifying child for whom this credit is claimed on the tax return. The taxpayer must submit or maintain the certificate as required by the Secretary of the Department of Revenue in forms and instructions.

4. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine the child care provider's quality rating.

C. Child Care Provider Tax Credit

1. The average monthly number of children as used in R.S. 47:6105 is to be determined on a calendar year basis and the provider shall claim the credit for the tax year that includes December 31. The child care provider tax credit will be calculated based on the average monthly number of children participating full-time in the Child Care Assistance or Foster Care Program, from January to December of a calendar year, as follows:

a. full-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 12 days of service per child during the month; or

b. part-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 40 hours of service per child during the month; or

c. part-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 5 days but no more than 11 days of service per child during the month;

d. two part-time participants are considered one full-time participant for purposes of this calculation.

2. The Department of Social Services shall provide documentation to each qualifying provider of the average monthly number of children participating in the Child Care Assistance Program or in the Foster Care Program. If the provider has multiple sites, the Department of Social Services shall provide this information for each site. The certificate shall be delivered or mailed to all qualifying child care providers by March 1 of the year following the year the credit is earned. The certificate shall include, but not be limited to, the following information: the child care facility name, the child care facility star rating, the child care facility Department of Social Services license number and the issue date and effective year.

3. Child care providers that operate as a corporation or sole proprietorship shall submit or maintain the credit certificate as required by the Secretary of the Department of Revenue in forms and instructions.

4. For child care providers that operate as flow through entities such as partnerships, LLCs electing partnership treatment, or S corporations passing credits through to shareholders, every partner, member, or shareholder claiming the credit must submit or maintain copies of the information issued by the Department of Social Services for each site. Every partner, member, or shareholder claiming the credit must submit or maintain a schedule showing how the total credit is allocated to each partner, member or shareholder.

5. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the provider's quality rating.

D. Credit for Child Care Directors and Staff

1. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. In order to claim this credit, the Department of Social Services, or their representative, must provide child care facility directors and staff members with a certificate no later than January 31 that states which level of qualification the employee meets according to the criteria established by the Department of Social Services. The taxpayer must submit or maintain the certificate as required by the Secretary of the Department of Revenue in forms and instructions.

3. Each child care facility director and staff member will also have to verify that he/she has worked at the same child care facility for at least six months in the calendar year, unless otherwise approved by the Department of Social Services.

4. Child care director and staff levels will have such meaning as provided by regulation issued by the Department of Social Services.

E. Business-Supported Child Care Credits

1. Business Child Care Expense Credit

a. In order for a business to claim this credit, the business must provide the Department of Revenue the following information: the name and Louisiana revenue tax identification number of the child care facility to or for whom the eligible expenses were paid or made, the amount and nature of qualifying expenses at each child care facility

as defined in R.S. 47:6102 and the child care facility's quality rating.

b. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the facility's quality rating.

2. Payments and Donations to Child Care Resource and Referral Agencies

a. In order for a business to claim this portion of the business child care expense credit, the taxpayer must provide the Department of Revenue a receipt from the child care resource or referral agency for the amount of money the taxpayer paid and/or donated during the taxable year.

b. If the child care resource or referral agency is part of a larger charitable organization, only fees and/or donations made to the child care resource or referral agency division of that organization will qualify for this credit. For example, if Volunteers of America has a division that functions as a child care resource or referral agency, only fees and donations made to the division of that organization would qualify for the credit while all other donations to Volunteers of America would not.

c. The Department of Social Services shall provide to the Department of Revenue a list of qualifying child care resource or referral agencies for each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474 , R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Department of Revenue and the Department of Social Services, LR 33:

Cynthia Bridges
Secretary Department of Revenue
and
Ann S. Williamson
Secretary Department of Social Services

0709#054

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

**Wind or Solar Energy Systems Tax Credits
(LAC 61:I.1907)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, the Secretary of the Department of Revenue hereby adopts Emergency Rule LAC 61:I.1907 pertaining to the administration of the wind or solar energy system income tax credits allowed by R.S. 47:6030. This Rule is being adopted as an Emergency Rule because Act 371 requires the Department of Revenue to promulgate regulations within 90 days of the effective date of the Act. Act 371 became effective on July 10, 2007. This Emergency Rule shall be effective October 1, 2007, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered
by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions

§1907. Income Tax Credits for Wind or Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana homeowner or the owner of a residential rental apartment project located in the state.

B. Definitions

Charge Controller—an apparatus designed to control the state of charge of a bank of batteries.

Grid-Connected, Net Metering System—a wind or solar electric system interconnected with the utility grid in which the customer only pays the utility for the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the Louisiana Public Service Commission's and the New Orleans City Council's, as appropriate, established Net Metering rules and procedures.

Inverter—an apparatus designed to convert direct current (DC) electrical current to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

Residence—a single family dwelling, one dwelling unit of a multi-family owner occupied complex, or one residential dwelling unit of a rental apartment complex. All eligible residences must be located in Louisiana.

Solar Electric System—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

Solar Thermal System—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling.

Supplemental Heating Equipment—a device or apparatus installed in a solar thermal system that utilizes energy sources other than wind or sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

Wind Energy System—a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy and transferring this form of energy by a separate apparatus to the point of use or storage.

C. Household Eligibility for Wind and/or Solar Energy Systems Tax Credits

1. Each residence in the state is eligible for tax credits for the number of separate complete wind, solar electric, and

solar thermal energy systems necessary to ensure that the residence is supplied with all of its energy needs.

2. The credit for the purchase and installation of a wind energy system or solar energy system by a resident individual at his residence shall be claimed by the resident individual on his Louisiana individual income tax return.

3. The credit for the purchase and installation of a wind energy system or solar energy system by the owner of a residential rental apartment project shall be claimed by the owner on his Louisiana individual, corporate or fiduciary income tax return.

4. All wind or solar energy systems must be installed in the immediate vicinity of the residence claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence.

5. In order to claim a tax credit(s) for a wind energy system, solar electric energy system, or solar thermal energy system the components for each system must be purchased and installed at the same time as a system. Eligible components of systems are defined in Section D.1 through D.3 below.

D. Wind and Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for complete and functioning wind energy systems or solar energy systems.

2. Wind Energy Systems

a. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC & AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers & supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	mechanical output wind turbine, towers & supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems

a. Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connect net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	photovoltaic panels, mounting systems, inverters, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems

a. Solar thermal systems eligible under the tax credit include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and solar pool heating systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Pool Solar Heating System	solar pool heating collectors, mounting systems and devices, controllers, actuators, valves, pool covers, air elimination devices, sensors, piping and other related materials from solar pool heating collectors to interconnection with pool filtration system

5. All wind and solar energy systems for which a tax credit is claimed shall include an Operations and Maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

6. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be UL listed and installed in compliance with all applicable building and electrical codes.

7. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with all applicable building and plumbing codes.

8. Applicants applying for the tax credit on any system(s) must provide proof of purchase to the Louisiana Department of Revenue detailing the following:

- a. type of system applying for the tax credit;
- b. output capacity of the system:
 - i. Solar Electric Systems—total nameplate listed kW of all installed panels;
 - ii. Solar Thermal Systems—listed SRCC annual BTU output;
 - iii. Wind Electric Systems—total rated kW of all alternators and generators;
 - iv. Wind Mechanical Systems—shaft horsepower as rated by manufacturer, licensed contractor or licensed professional engineer;
- c. physical address where the system is installed in the state;
- d. total cost of the system as applied towards the tax credit separated by:
 - i. equipment costs;
 - ii. installation costs;
- e. make and model number of generators, alternators, turbines, photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit.

E. Tax Exemption Eligibility of Certain Costs

1. Eligible Costs—Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the wind and solar energy systems defined in Subsection B and described in Subsection D above. All installation must be performed by a contractor duly licensed by and in good standing with the Louisiana State Contractors Licensing Board, the owner of the residence, or by a person who has received certification by a technical college in the installation of such systems. Equipment costs must be in accordance with Subsections D 4, 5, 6 and 7 above.

2. Ineligible Costs—Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. Supplemental heating equipment costs used with solar collectors are not eligible for inclusion under the tax credit.

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips or any other thing of value given by the installer to the customer as an inducement to purchase an eligible wind or solar energy system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 33:

Cynthia Bridges
Secretary

0709#053

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Child Care Assistance Program—LA Pathways
(LAC 67:III.5125 and 5127)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III Subpart 12, Chapter 51, Child Care Assistance Program, Subchapter D Louisiana Pathways Child Care Career Development System(LA Pathways). This Emergency Rule shall be effective upon approval of the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs or the passage of 60 days following publication whichever occurs first, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to effectuate the intent of the legislators in Act 394, Regular Session 2007. Revised Statute 47: 6103 clearly states that the Senate Committee of Revenue and Fiscal Affairs and the House Committee on Ways and Means have 60 days after publication of the emergency rule to take action on such rule. Additionally, by statute any rule needs to be effective by December 1, 2007, in order to be applicable to the tax year beginning January 1, 2008. A delay in promulgating this Rule would have an adverse impact on the entire school readiness tax credit program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter D. Louisiana Pathways Child Care Career Development System (LA Pathways)

§5125. Authority

A. LA Pathways is the state practitioner registry maintained by the Department of Social Services. LA Pathways offers child care staff, including directors, teachers, assistant teachers and other classroom staff, a formal mechanism to track their training and educational attainment, experience and professional affiliation in the field of early care and education.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

§5127. Participation in LA Pathways

A. Any individual working or planning to work in the child care industry is eligible to enroll in LA Pathways by completing an application and forwarding the required documents. An application for enrollment and information about enrollment is available at <http://pathways.louisiana.gov> or by phoning the Division of Child Care and Early Childhood Education at 225-342-0694.

LA Pathways will register child care directors and staff according to requirements based on training and education, experience and professional activities, as approved by the Department of Social Services. Participation is voluntary.

B. Requirement for the Administrator Track for LA Pathways

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Assistant Director I	annual training as required by Licensing Minimum Standard	none	Encourage to participate in an early childhood professional organization
Assistant Director II	60 clock hours in approved core knowledge (CDA) subject areas including 6 hours in regulations	minimum 6 months	Encourage to participate in an early childhood professional organization
Assistant Director III	90 clock hours in approved core knowledge (CDA) subject areas including 15 hours in approved Administrative Training Categories	minimum 1 year	Encourage to participate in an early childhood professional organization
Director	as required by Licensing Minimum Standards	as required by licensing	Encourage to participate in an early childhood professional organization
Director I	CDA Credential or approved early childhood diploma and 30 clock hrs. in approved Administrative Training Categories or related associate degree or 30 hours toward associate degree with 4 college courses in early childhood or child development	minimum 1 year	Membership in an early childhood professional organization.
Director II	CDA Credential or approved early childhood diploma and 45 clock hrs. in approved Administrative Training Categories or National Administrative Credential or associate degree in early childhood or child development or related associate degree with 4 college courses in early childhood or child development or related bachelor degree with 3 college courses in early childhood or child development	minimum 18 months	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Director III Administrator Certificate To receive an Administrator Certificate you must have 75 clock hours of instruction in approved Administrative Training Categories 2 college courses in approved administration can be substituted for the Administrator Certificate	CDA Credential or approved early childhood diploma and Administrator Certificate or associate degree in child development or early childhood and Administrator Certificate or bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers and Administrator Certificate or related bachelor degree with 6 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event
Level VIII Director IV	master degree in early childhood, child development or early childhood administration of which 3 courses focus on infants and toddlers and Administrator Certificate or related masters degree with 8 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

C. Requirements for the Classroom Track for LA Pathways.

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Staff I	as required by licensing regulations	none	encouraged to participate in an early childhood professional organization

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Staff II	12 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 6 months	encouraged to participate in an early childhood professional organization
Child Care Staff III	30 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Staff IV	60 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher I	90 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher II	120 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Teacher I	CDA credential In preschool or infant/toddler specialization or approved early childhood diploma	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Teacher II	CDA credential or approved early childhood diploma and 9 CEU's or 2 early childhood college courses or 30 hours toward associate degree with 4 college courses in early childhood or child development or related associate degree	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher III	associate degree in early childhood or child development or related associate degree with 4 college courses in early childhood or child development or bachelor degree in early childhood or child development or related bachelor degree with 3 college courses in early childhood or child development	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Teacher IV	bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers or related bachelor degree with 6 early childhood or child development college courses of which 3 focus on infants and toddlers	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Master Teacher	graduate degree in early childhood or child development or unrelated graduate degree with 4 early childhood or child development college courses	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities

D. Qualification for the School Readiness Tax Credit for child care directors and staff.

1. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Child Care Director Levels:

a. Directors who are classified as Director I by LA Pathways are classified as meeting Level I qualifications for purposes of this credit.

b. Directors who are classified as Director II by LA Pathways are classified as meeting Level II qualifications for purposes of this credit.

c. Directors who are classified as Director III by LA Pathways are classified as meeting Level III qualifications for purposes of this credit.

d. Directors who are classified as Director IV by LA Pathways are classified as meeting Level IV qualifications for purposes of this credit.

3. Child Care Staff Levels:

a. Staff members who are classified as Child Care Teacher I by LA Pathways are classified as meeting Level I requirements for purposes of this credit.

b. Staff members who are classified as Child Care Teacher II by LA Pathways are classified as meeting Level II requirements for purposes of this credit.

c. Staff members who are classified as Child Care Teacher III by LA Pathways are classified as meeting Level III requirements for purposes of this credit.

d. Staff members who are classified as Child Care Teacher IV or Child Care Master Teacher by LA Pathways are classified as meeting Level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Ann S. Williamson
Secretary

0709#012

DECLARATION OF EMERGENCY

Department of Social Services Family Support

Child Care Quality Rating System (LAC 67:III.5115-5123)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III Subpart 12, Chapter 51, Child Care Assistance Program, Subchapter C, Child Care Quality Rating System (QRS) effective, August 17, 2007. This Rule shall remain in effect for a period of 120 days.

Adoption of Subchapter C, Quality Rating System (QRS), is pursuant to the authority granted to the Department by the Child Care and Development Fund (CCDF). As a result of the devastation resulting from Hurricanes Katrina and Rita, child care centers in Louisiana have struggled to rebuild in affected areas. In other parts of the state, the centers have expanded their capacity to serve these displaced families. In an effort to guide child care centers as they restore critically needed child care services, the agency has established a quality rating system which uses licensing as the foundation and sets a continuum of quality indicators focused in the social-emotional needs of children. The Quality Rating System will provide a mechanism by which child care centers can be assessed regarding the level of quality care given. The QRS will also provide a guide for parents to choose higher settings of child care beyond basic licensure and will offer a structure for child care centers to communicate the level of quality provided in their facility.

This Declaration of Emergency is preceded by and shall replace the Declaration of Emergency effected May 1, 2007, and published in the May 2007 issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter C. Child Care Quality Rating System

§5115. Authority

The Child Care Quality Rating System is established and administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

§5117. Definitions

Approved Courses—courses that are deemed approved by the department.

Assistant Directors—must be on site for a minimum of 20 hours per week for centers with an enrollment of 101 or more.

Assistant Teachers—any staff who cares for children at least 16 or more hours per week and is not a lead teacher and meets the assistant teacher criteria.

Child Care Center—a licensed day care center.

Child Care Resource and Referral (CCR&R)—a state and/or local organizations with whom the department has contracted to provide services to families, early childhood professionals, and communities statewide.

Child Development Associate (CDA) Credential—a nationally recognized credential which can be used to meet staff qualification requirements.

Director—an administrator who meets the director qualifications and is on-site a minimum of 30 hours per week. This requirement can be met by having one or more persons on site who meet these qualifications.

Early Childhood Environment Rating Scale-Revised (ECERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children ages 2.5–5 years of age.

Environment Rating Scales (ERS)—the assessment tools developed at Frank Porter Graham Child Development Institute at the University North Carolina that measure environmental indicators of quality. They include the Infant Toddler Environment Rating Scale-Revised (ITERS-R) and the Early Childhood Environment Rating Scale-Revised (ECERS-R), as well as the School Age Care Environment Rating Scale (SACERS) for school age programs, and the Family Child Care Environment Rating Scale-Revised (FCCERS-R) for family child care homes.

Group—those children who are assigned for most of the day to a specific teacher and who occupy an individual classroom or well defined space that prevents intermingling of children from different groups within a larger group or area.

Infant Toddler Environment Rating Scale-Revised (ITERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children 0-2.5 years of age.

Lead Teacher—a teacher who has primary responsibility for a designated classroom including, planning and supervision and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher.

Louisiana Pathways Child Care Career Development System—the state practitioner registry maintained by the Department of Social Services and/or its contractor. LA Pathways registers child care directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the Department of Social Services. Categories are established for child care staff, child care assistant teacher, child care teacher, child care assistant director and child care director. Information on LA Pathways can be found at <http://pathways.louisiana.gov/> or www.dss.state.la.us.

Quality Rating System (QRS) Points—points given in the Program, Staff Qualifications, Administrative Practices, and Family and Community Involvement areas. All items

within a point must be verified to receive credit. The total points earned determine the star award at star rating 3, 4, and 5.

Service Period—the months within the calendar quarter for which a child received care.

Social Emotional Subscales of the Environment Rating Scales—a subscale of the ECERS-R and ITERS-R generated by the scores earned on the Language-Reasoning, Interaction and Program Structure subscales of the ECERS-R and the Listening and Talking, Interaction and Program Structure subscales of the ITERS-R. This new subscale score will be used to determine the ERS score for Program Points 1–4.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

§5119. Quality Rating System Requirements

A. The Child Care Quality Rating System (QRS) is designed to assess levels of child care, support improvements of child care centers, and communicate the level of quality in early care and education programs. The QRS consists of five star ratings that can be earned by a licensed child care center, uses licensing as the foundation, and has four star ratings above Louisiana's licensing standards. The system components (Administrative Practices, Family and Community Involvement, Program, and Staff Qualifications) have indicators that must be achieved to earn the star rating.

1. Foundation One Star—to participate at the one-star level, a child care center shall have a license to operate and comply with standards as defined in LAC 48:I.5301-5354.

2. Foundation Two Star—to earn a two-star award, a child care center must meet all the standards for a Foundation One Star, have been in operation for six months, and meet the following.

a. Administrative Practices

i. Written personnel policies including:

- (a). operational hours;
- (b). dress code;
- (c). use of telephone; and
- (d). schedule.

ii. Job descriptions that include a list of qualifications on file and are provided to all staff.

iii. Provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:

(a). Employee health insurance or comparable health benefits;

(b). paid annual leave;

(c). paid sick leave;

(d). paid holidays;

(e). child care benefit/discount;

(f). bonus based on merit/achievement or education;

(g). retirement compensation;

(h). annual increments based on merit;

(i). tuition reimbursement, and other related educational expenses such as books, travel, fees, substitutes;

(j). differential shift pay;

(k). flextime;

(l). pay professional association membership fee.

b. Family and Community Involvement

i. Parent provided pre-enrollment visit and center tour.

ii. Give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, food stamps and information on a child's medical home.

c. Program

i. Make four of the following activity areas available daily:

- (a). art and creative play;
- (b). children's books;
- (c). blocks and block building;
- (d). manipulatives; and
- (e). family living and dramatic play.

ii. Complete a self assessment of program and develop an improvement plan.

d. Staff Qualifications

i. Directors and teachers must join and maintain a current record with the Louisiana Pathways Child Care Career Development System Registry. A director must complete three hours of Environment Rating Scales training.

ii. Director (on-site)

(a). Three semester hour credits in care of young children or child development¹ and

(b). Three semester hour credits in administration² and

(c). One year experience in teaching young children in an early childhood program.

iii. Assistant Director

(a). Three semester hour credits in care of young children or child development.¹

iv. Teacher. Seventy-five percent of lead teachers must meet one of the following:

(a). complete three semester hour credits course in care of young children or child development¹ from a list of approved courses or enroll in the course and complete within one year of employment.

3. Point Standards for child care centers seeking Three Star rating, Four Star rating, and Five Star ratings. To achieve a higher rating, a Child Care Center must meet all requirements of the Foundation Two Star and earn points in the Program and Staff Qualifications by meeting the requirements listed below. At least one point must be earned in each Program and Staff Qualifications. The Quality Point referenced in Subparagraph 3.c. may also be earned. The total number of points will determine the Star rating awarded to the center.

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

a. Program

Points	Criteria								
1	An average of 3.75 on the designated social-emotional subscale of the Environment Rating Scales (ERS) ³ , with no one classroom score lower than 3.0 on the subscale.								
2	An average of 4.0 on the designated social-emotional subscale of the ERS ³ with no one classroom score lower than 3.0 on the subscale.								
3	<div><div><div>1. An average of 4.25 on the designated social-emotional subscale of the ERS³ with no one classroom score lower than 3.25 on the subscale.</div><div>2. Staff: Child Ratio and Group Size</div></div><table><tr><td>0-12 months 1:4,8</td><td>25-36 months 1:8, 16</td><td>4 yrs 1:12, 24</td><td>6 yrs & up 1:20, 30</td></tr><tr><td>13-24 months 1:6,12</td><td>3 yrs 1:10, 20</td><td>5 yrs 1:15, 30</td><td></td></tr></table><div>3. Written transition procedures for children moving within a program or to other programs or beginning school.</div></div>	0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30	13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30	
0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30						
13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30							
4	<div><div><div>1. An average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS.</div><div>2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources.</div><div>3. Staff: Child Ratio and Group Size</div></div><table><tr><td>0-12 months 1:4, 8</td><td>25-36 months 1:8, 16</td><td>4 yrs 1:12, 24</td><td>6 yrs & up 1:20, 30</td></tr><tr><td>13-24 months 1:6, 12</td><td>3 yrs 1:10, 20</td><td>5 yrs 1:15, 30</td><td></td></tr></table><div>4. Written transition procedures for children moving within a program or to other programs or beginning school.</div></div>	0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30	13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30	
0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30						
13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30							

Points	Criteria
5	<ol style="list-style-type: none"> 1. An average of 5.0 on the overall ERS, with no one classroom score lower than 4.0. 2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources. 3. Provide a plan for continuity of care for all children 0-36 months of age. 4. Implementation of Louisiana's Early Learning Guidelines and Program Standards; Birth through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). 5. Staff: Child Ratio and Group Size: 0-24 months 1:4, 8 2 yrs 1:6, 12 3 yrs 1:8, 16 4 yrs 1:10, 20 5 yrs 1:10, 20 6 yrs and up 1:12, 24

b. Staff Qualifications

Points	Criteria
1	<p>All teachers and directors complete three hours of ERS training.</p> <p>Director (on-site)</p> <ol style="list-style-type: none"> 1. Six semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience teaching young children in an early childhood program. <p>Assistant Director</p> <p>Three semester hour credits in care of young children or child development.¹</p> <p>Lead Teacher</p> <p>All of Lead Teachers must complete three semester hour credits in care of young children or child development from a list of approved courses¹ or enroll in the course and complete within one year of employment.</p> <p>Assistant Teacher</p> <p>Fifty percent of Assistant Teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development¹ and complete the course within one year of employment.</p>
2	<p>All teachers and directors complete three hours of ERS training.</p> <p>Director</p> <ol style="list-style-type: none"> 1. Nine semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year of teaching experience and one year teaching or administrative experience in an early childhood program. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. Seventy-five percent of Lead Teachers must have completed six semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment, and 2. One year full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>50 percent of Assistant Teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development¹ and complete the course within one year of employment.</p>
3	<p>Directors and all teachers complete six hours of ERS training. Directors and lead teachers complete training in social-emotional screening of children. Director completes training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Twelve semester hours in care of young children or child development¹, and 2. Six semester hours of administrative coursework², and 3. One year teaching experience and 1 year administrative experience and one year teaching or administrative experience in an early childhood setting for a total of three years experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. Seventy-five percent of Lead Teachers must have completed nine semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed six semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment, and 2. One year full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>50 percent Assistant Teachers must have completed three semester hour credits in the care of young children or child development¹.</p>

Points	Criteria
4	<p>Directors and all teachers complete 6 hours of ERS training. Directors and all teachers complete training in social-emotional screening of children and developing individual instructional plans for children based on specific developmental needs. Directors and lead teachers complete training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three, (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Fifteen semester hour credits in the care of young children or child development¹, and 2. Six semester hour credits of administrative coursework², and 3. One year teaching experience and one year administrative experience and two years teaching and/or administrative experience in an early childhood setting for a total of four years experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. Seventy-five percent of Lead Teachers must have completed 12 semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment, and 2. Two years full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>All Assistant Teachers must have completed three semester hour credits in the care of young children or child development¹.</p>
5	<p>Directors and all teachers complete six hours of ERS training. Directors and all teachers complete training in social-emotional screening of children and developing individual instructional plans for children based on specific developmental needs. Directors and all teachers complete training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three, (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Associate's degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, care of exceptional children and care of school age children or equivalent such as Director III LA Pathways and/or including, 2. Six semester hour credits or 75 hours of administrative training², and 3. One year teaching experience and one year administrative experience and three years teaching and/or administrative experience in an early childhood setting for a total of five years experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Six semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administration², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. All Lead Teachers must have six semester hour credits in the care of young children or child development¹ from a list of approved courses, and 2. Seventy-five percent of Lead Teachers must have completed 15 semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within a year of employment, and 3. Two years full-time experience in an early childhood setting for all teachers. <p>Assistant Teacher</p> <p>All Assistant Teachers must have completed six semester hour credits in the care of young children or child development¹ or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment.</p>

c. An additional Quality Point can be earned by meeting additional requirements in both the Administrative Practices and the Family/Community Involvement areas.

Quality Point	
Points	Criteria
1	<p>Administrative Practices - meet three requirements below</p> <ol style="list-style-type: none"> 1. Provide four of the benefits from the list* of options below for all full time staff. 2. Include grievance procedure and a professional conduct code for staff in written personnel policies. 3. Pay scale based on education, experience, responsibilities and merit. 4. Provide training to staff on cultural sensitivity. 5. Written parent and staff confidentiality policy and provide training to staff <p>and</p> <p>Family/Community Involvement - meet four requirements below</p> <ol style="list-style-type: none"> 1. Participate in meetings for directors provided by Resource and Referral agency at least quarterly, with the director or assistant director attending 50 percent of the meetings. 2. Provide a complaint process for parents. 3. Offer opportunity for a formal parent/teacher conference meeting annually. 4. Provide an expanded list of local community resources to parents annually including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, food stamps and information on a child's medical home. 5. Parent Advisory Council meets annually to review policies, procedures and parent handbook. 6. One group meeting per year offered to all families. 7. One parent education workshop offered per year by center or other agency.

The following footnotes reference program criteria and staff qualifications in Section 5119:

Staff Qualifications

¹The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development: a CDA or have approved high school child development courses or have five years full-time experience in an early childhood program or have completed a Child Care Assistant Teacher 1 LA Pathways Classroom Certificate. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development: CDA or have completed a Child Care Assistant Teacher 2 LA Pathways Classroom Certificate. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

²The following may be substituted to meet the requirement for three semester hour credits in administration: LA Pathways Administrator Certificate or National Administrator Credential (NAC) or three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE: For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next QRS review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

³For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales: ITERS-R—Listening and Talking, Interaction and Program Structure; ECERS-R—Language—Reasoning, Interaction and Program Structure.

* Staff benefits options: employee health insurance or comparable health benefits; paid annual leave; paid sick leave; paid holiday; child care benefit/discount; bonus based on merit/achievement or education; retirement compensation; annual increments based on merit; tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

§5121. Participation

A. A child care center will complete the application for participation in the Quality Rating System. A quality rating verification visit will be conducted by the department and one or more stars may be awarded.

B. Quality ratings will be valid for one year from the date of the star rating award. Ratings will have to be earned annually through the quality rating verification process.

C. Centers with one-star award may apply for a quality rating verification after receiving their one-star award. Centers with more than one-star may apply for a quality rating review six months after the date of their current rating award.

D. Centers that have achieved a Star Rating will have their rating revoked if the child care license is revoked or if the child care center is referred to the designated licensing committee with a recommendation from the department for revocation.

E. Centers that have achieved a star rating may have their rating reviewed and modified if, at any time, it becomes known to the department or the department receives information or has actual knowledge that the child care center no longer meets standards for the center's current star rating award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

§5123. Quality Rating System Awards

A. Bonus payments will be issued after the end of each calendar quarter to Class A child care centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the star rating for the service(s) period for that quarter. The payment is equal to a percentage, as defined below, of all child care subsidy payments received from the department by the Class A center for services provided during the service period(s) based for that quarter on the center's rating(s):

1. one star—0 percent;
2. two star—3 percent;
3. three star—8 percent;
4. four star—13.5 percent;
5. five star—20 percent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Ann S. Williamson
Secretary

0709#003

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

TANF—Domestic Violence and Homeless Initiative
(LAC 67:III.5509 and 5589)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III.5509, Domestic Violence Services, and 5589, Homeless Initiative. These amendments are necessary to allow the agency to provide community collaboration training for the purpose of educating the community regarding domestic violence and the available services to victims of domestic violence provided by the agency and to clarify available services provided to the homeless. An Emergency Rule is needed for the agency to remain in compliance with federal regulations regarding Louisiana's Temporary Assistance to Needy Families (TANF) block grant. This Emergency Rule, effective October 13, 2007, will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective June 15, 2007, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the October 2007 issue.)

Section 5509, Domestic Violence Services, is being amended to clarify services provided to victims of domestic violence and their children. Section 5589 Homeless Initiative is being amended to clarify the definition of basic needs concerning homelessness.

The authorization for emergency actions in these matters is contained in Act 17 of the 2006 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Subpart 15. Temporary Assistance For Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5509. Domestic Violence Services

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Food Stamps, Child Care, and Employment Training.

B. - D. ...

E. Direct services that provide for basic needs and are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:0000 (July 2007).

§5589. Homeless Initiative

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, and housing options. Direct services that are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:

Ann S. Williamson
Secretary

0709#059

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007-08 Deer Tagging and Validation

In accordance with the provisions of R.S. 49:953B and 967D(1) of the Administrative Procedure Act, and under the authority of R.S. 56:115 and 56:108, the Wildlife and

Fisheries Commission hereby adopts the following Emergency Rule:

Whereas this commission previously established rules and regulations pertaining to mandatory deer tagging and validation statewide for the 2007-08 Deer Season, and because problems associated with hunters being able to obtain deer tags at the time hunting licenses went on sale on June 1, 2007 caused hunters to obtain licenses without tags or with improper tags, the department recommends that the mandatory requirements for statewide deer tagging and validation be suspended for the 2007-08, and that deer tagging and reporting be done on a voluntary basis for the 2007-08 deer season. Therefore, this commission hereby adopts the following regulation:

The Wildlife and Fisheries Commission suspends the rules and regulations requiring mandatory deer tagging and validation for the 2007-08 deer season. Tagging and reporting will be voluntary for the 2007-08 deer season.

This action must be taken by Declaration of Emergency since the commission's rules and regulations for the 2007-08 have been approved and submitted to the legislative leadership and the State Register, and insufficient time remains to make these changes via standard rulemaking prior to the opening of the 2007-08 Deer Season.

This provision supersedes the corresponding provision contained in LAC 76:XIX.111 which was promulgated as a Rule and published in the *Louisiana Register* [LR 33:1382 (July 2007)].

Earl P. King, Jr.
Chairman

0709#040

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007-08 Ducks, Coots, and Geese Hunting Season

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

The hunting season for ducks, coots and geese during the 2007-2008 hunting season shall be as follows:

Ducks and Coots: 60 days

West Zone: November 10 - December 2
December 15 - January 20

East Zone: November 17 - December 2
December 15 - January 27

Youth Waterfowl Weekend - November 3-4 in West Zone, November 10-11 in East Zone.

Daily Bag Limits: The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 1 pintail, 3 mottled ducks, 1 black duck, 2 wood ducks, 2 scaup, 2 redheads and 2 canvasback. Daily bag limit on coots is 15.

Mergansers - The daily bag limit for mergansers is 5, only 2 of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit - The possession limit on ducks, coots and mergansers is twice the daily bag limit.

Geese: 72 days

Light Geese (Snow, Blue and Ross's) and

White-Fronted Geese

West Zone: November 10 – December 2

December 15 - February 1

East Zone: November 5 - December 2

December 15 - January 27

Daily bag limit on light geese (snow, blue and Ross's):
20

Possession limit on light geese (snow, blue and Ross's):
None

Daily Limit on white-fronted geese: 2

Possession Limit on white-fronted geese: 4

Canada Geese: Closed in the area described below

January 12 - January 27

Daily Limit on Canada geese: 1

Possession limit on Canada geese: 2

The Canada Goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82. Open waters of Lake Arthur and the Mermentau River from the Highway 14 bridge southward will also be closed to Canada goose hunting.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from any license vendor.

Conservation Order for Light Geese

(Snow, Blue and Ross's)

West Zone: December 3 - December 14
February 2 - March 9

East Zone: December 3 - December 14
January 28 - March 9

Only snow, blue and Ross's geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begins one-half hour before sunrise and extends until one-half hour after sunset.

Rails: November 10 - January 2

Kind and Clapper: Daily bag limit 15 in the aggregate, possession 30.

Sora and Virginia: Daily bag and possession 25 in the aggregate.

Gallinules: November 10 - January 2

Daily bag limit 15, Possession limit 30

Snipe: November 3 - December 3

December 15 - February 28

Daily bag limit 8, Possession limit 16

Shooting Hours: One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

Extended Falconry Seasons for Ducks, Rails and Gallinules:

Statewide: November 3 - February 1

Sixteen days of the total season lengths for rails, gallinules and extended falconry seasons were used during the September teal season.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2007 and extend through one-half hour after sunset on March 9, 2008.

Bryant O. Hammett, Jr.
Secretary

0709#039